

In re Application of: Benjamin GELLER et al.
Serial No.: 10/553,933
Filed: October 20, 2005
Office Action Mailing Date: July 22, 2010

Examiner: Vani GUPTA
Group Art Unit: 3768
Attorney Docket: 37514
Confirmation No.: 6137

REMARKS

Reconsideration of the above-identified Application in view of the remarks following is respectfully requested.

The Application includes 13 claims, 1-7 and 35-40.

Claims 1-3, 35-37, 39, 45-48 and 53-55 have been rejected under 35 U.S.C. §102.

Claims 4-7, 38, 40, 49 and 50 have been rejected under 35 U.S.C. §103.

Claims 35, 40 and 47 are amended herewith.

General

The discussion below is pursuant to a telephone interview on January 4, 2011, between Examiners Gupta and Le and Applicants' representative. Applicants thank the Examiners for their cooperation and assistance. At this interview, applicants presented their position that claim 1 is not anticipated by Iger, at least because claim 1 has the limitation of using a flat interface, and that that limitation is not found in Iger. The Examiners tended to agree with this argument and requested a written exposition, provided herewith.

In any case, it was apparently also agreed that the finality of the office action be retracted. Notice to this effect is respectfully requested.

In addition, the Examiners suggested the correction of several claims with regard to antecedent basis. This has been done herewith. In particular, Claim 47 has been amended to depend on claim 48, to provide antecedent basis for "liquid". Claims 35 and 40 have been amended and made dependent on claim 51, to provide antecedent basis to the ultrasound source. These amendments are merely cosmetic.

Objection under 35 U.S.C. §102

The Examiner rejected claim 1 as being anticipated by Iger et al. (U.S. Patent No. 6,206,843), hereinafter 'Iger'. Applicants respectfully disagree and submit that Iger does not provide a prima facie case of anticipation.

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Applicants note that claim 1 includes the limitation of "a flat interface suitable for separating the ultrasonic transducer from the liquid while ultrasonically coupling therebetween."

Iger's interface, as a focusing lens, is not flat but rather has a curvature; for example, in Col. 8 Lines 35-36 "an acoustic lens... having a curvature r ". In particular, this feature is critical in Iger, as there is a need to provide a focused beam e.g., at a blood vessel under the skin. Some embodiments of Iger (e.g., Figs. 2A-4B) do not show a separate lens, but the transducer is said and shown to be focusing. In any case, no additional layer between such lens and the liquid is shown, especially not an elastomeric layer or a layer which is part of the rest of the housing (see dependent claims).

It is noted that Iger is not sensitive to the issue of transducer sterility because Iger is used against unbroken skin, with tissue under the skin being treated. In contrast, debridement operates on diseased and broken skin and is expected to generate a spray of bio-hazard material. Babaev solves this problem by providing a stream from the transducer to the skin. The instant claim provides a housing to enclose the treated region and liquid, while isolating the transducer from any such potentially contaminated material. This solution is different from any of the cited art and has the additional potential benefit of assisting in aiming the transducer at the wound, while maintaining a clean work area and allowing a stream of patients to be treated without sterilization of the ultrasonic transducer. It is noted that providing a single element housing can allow/assist in performing a debriding operation by relatively unskilled personnel and requiring a less demanding environment.

Some particular dependent claims to note

Claim 45 relates to the interface being elastomeric. In Iger, the lens is hard. This issue is also relevant for claim 47, that the acoustic properties of the interface are like those of the liquid. If they were in Iger, there would be no lens effect.

Claim 46 relates to the entire housing being made of an elastomeric material. It is not clear how Iger could do this.

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Claims 53, 54 and 55 relate to liquid flow in the housing. Iger needs no such flow as the skin is unbroken in Iger. Babaev was unable to provide this feature and, instead, liquid used is not contained.

Applicants submit that dependent claims 2-7, 35-40 and 45-55 are patentable for at least the same reasons as amended independent claim 1 from which they depend.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that claims 1-7, 35-40 and 45-55 are now in condition for allowance. It is respectfully requested that applicants be given the opportunity to amend the method claims to include the limitations of claim 1 and provide a rejoinder thereby.

A prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

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Date: January 10, 2011